IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

CR NO.3422 OF 2007

DATE OF DECISION: 13.7.2007

M/s RR Engineering Company ...PETITIONER

VERSUS

M/s Panipat Cooperative Sugar Mills Ltd. ...RESPONDENT

CORAM

HON'BLE MR.JUSTICE PERMOD KOHLI

PRESENT: Mr.V.K.Jain, Sr. Advocate with
Mr.Prashant Vashisth, Advocate
for the petitioner

Mr.Kulvir Narwal, Advocate
for the Caveator-Respondent

PERMOD KOHLI,J. (ORAL)

An arbitration award came to be passed by the Arbitrator in a dispute between the parties to this petition. After the publication of the award, the same was filed in the Court of Civil Judge (Sr.Division), Panipat for making it rule of Court in terms of Sections 14/17 of the Arbitration Act, 1940. It appears that both the parties were aggrieved of the part of the award. The Arbitrator

accepted certain claims of both the parties and also declined certain claims. Consequently, both the parties challenged the arbitration award in terms of Sections 30/33 of the Arbitration Act. The allegations of misconduct made by the respondent- M/s Panipat Cooperative Sugar Mills Ltd. were conceded by the present petitioner before the court below. On the basis of such admission, the petitioner filed an application under Order 12 Rule 6 CPC seeking a direction from the Court to set aside the award as both the parties have challenged the award on the ground of misconduct of the Arbitrator. Before this application came to be filed, the parties were directed to lead evidence on their respective objection petitions filed by the parties challenging the award. The trial court vide the impugned order dated 12.5.2007 refused to set aside the award on an application under Order 12 Rule 6 of the CPC primarily on the ground that the evidence has already been led by the parties and it is not proper to set aside the award on the basis of application filed under Order 12 Rule 6 of the CPC. It is this order which is assailed before this Court.

I have carefully gone through the impugned order. Though the petitioner has conceded the allegations of misconduct, but it is for the Court to satisfy itself whether the misconduct alleged against the Arbitrator is established under law or not. Parties having chosen to lead evidence and evidence having been completed, there was no occasion for the petitioner to file an application under Order 12 Rule 6 of the CPC, seeking to set aside the award only on the basis of admission. It is for the Court

to see whether admission sought to be pressed into service, is an admission legally permissible or not. It is always the satisfaction of the court to decide an issue on the basis of admission both in terms of Order 12 Rule 6 of the CPC and Section 58 of the Evidence Act. There is nothing on record to show that the Court is satisfied regarding the alleged admission of misconduct. Apart from that, the Court exercised its discretion to decide the case on the basis of the evidence recorded. I do not find any infirmity in the impugned order.

In view of the above, I find no merit in this Revision which is accordingly dismissed.

(PERMOD KOHLI)
JUDGE

13.7.2007
MFK

Note:Whether to be referred to Reporter or not:YES